

**OPINION  
49-167**

October 21, 1949            (OPINION)

RECORDING

RE: Filing of Conditional Sales Contract

Your letter of the 18th inst. has been referred to my desk.

You ask whether a conditional sales contract may be filed in your office when the execution thereof has not been proven by the signatures of two witnesses, or by an acknowledgement.

Conditional sales contracts are authorized by section 51-0121 N.D.R.C. 1943.

Section 51-0710 provides that all reservations of title to personal property, as security for the purchase price thereof, when the possession of such property is delivered to the vendee, shall be void as to subsequent creditors without notice, and purchasers and encumbrancers in good faith and for value unless such reservation is in writing and is filed the same as a mortgage of personal property. This simply means that the reservation of title does not protect the seller unless he files the contract.

Neither of these sections makes any provision as to the manner of executing such a contract. Therefore, all that is required is that it be signed by the parties as any other written contract is signed. No contract required to be in writing can be enforced unless it is signed by the party against whom it is sought to be enforced. It is not necessary that it be signed by both parties. If a conditional sale contract is signed by the seller but not by the buyer, it cannot be enforced by the seller.

Therefore, it is our opinion that a conditional sale contract may be filed although neither witnessed or acknowledged.

WALLACE E. WARNER

Attorney General